

REMARKS

In the above-referenced Office action the Examiner rejected Claims 1,4-7 and 14 under 35 U.S.C. 102 (b) as being anticipated by Toole (VS 5,179,235).

To support this rejection, he stated, "Toole discloses an optical sighting device comprising an elongated housing (52), a lens (54, 56) located at one end of the light channel and having a partially reflective surface (inherently disclosed in order to emit a beam of light), a laser diode (222, 240, 248) for emitting light toward said reflective surface to produce a light spot by direct imaging of the laser diode on said reflecting surface and wherein the light spot is being superimposed on a target when sighting through the light the light channel (See Column 6, lines 20-28), a battery (202) for providing electric current, and an energizing circuit (74) for energizing the laser diode and operable to apply a pulsating electric current from said battery to said laser diode source (See Column 5, lines 10-15). Toole also discloses a control means provided for energizing the laser diode when a weapon (12) to which said optical sight is mounted is to be used and for automatically reducing energization of the laser diode in dependence of a predetermined condition and for adjusting the intensity of the light spot and a pulse width modulation of the laser diode source (See Column 5, lines 28-41). Toole discloses

a manually operated switch (204) for energizing the laser diode. Toole discloses a control means that is considered to include a time - out circuit for deenergizing since clearly states that as the laser diode output will depend on the current which will be regulate with the driving circuit (See Column 5, lines 28 - 45). Toole discloses a pulsing circuit which in a broad sense is operable to generate pulses of electric current at a rate such that that the pulsing of the laser light is not apparent to the user." This rejection has been rendered moot by the cancellation of these claims. Additionally it should be noted that Applicant believes that by the reasoning presented by the Examiner, in the office action, indicates that he has not interpreted the reference applied, US 5,179,235 (Toole), in a correct way and that he gathers from the reference facts which applicant believes are not disclosed therein. The prior art sight disclosed in the reference is not a sight through which one looks when observing the target area, and no light spot is observed through the sight. The reference, on the other hand, discloses a sight that generates a light beam which is directed towards the target and which produces on the target a hit point. It seems to be possible to control the intensity of this point but not by pulse width modulation. The intensity of the light beam is controlled by means of a resistor 218. The greater the resistance of resistor 218, the smaller the amount of light that

has to be intercepted by the photo diode 222 in order to reach the reference voltage established by the zener diode 226 i.e. of laser diode 240 is reduced. It should be noted that this prior art system is based on a DC circuitry and is not a pulsed system as that proposed according to the invention. Accordingly, new claims 15-21 are believed to be allowable.

Further, the Examiner rejected Claim 8 under 35 U.S.C. 103(a) as being unpatentable over Toole (VS 5,179,235) in view of Madni et al. (VS 5,974,940). He stated, "Toole discloses a sighting device as stated in paragraph 2 above.

Toole does not disclose the motion sensor as stated in claim 8.

With respect to claim 8 : Madni et al. discloses a rifle comprising motion sensors (21 a, 21 b) mounted on the rifle for detecting variation in horizontal or vertical movement when the rifle is in use. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add a motion sensor as taught by Madni et al. in the device disclosed by Toole in order to decrease the aiming time and correct for displacement by providing a compensation mechanism to correct for involuntary movement from the user, i.e., movement created when breathing or target in movement." This rejection has also been rendered moot by the newly presented claims for the reasons stated above.

Next, the Examiner rejected Claim 9 under 35 U.S.C. 103 (a) as being unpatentable over Toole (US 5,179,235) in view of Chanforan et al. (US 4,606,724). He stated, "Toole discloses a sighting device as stated in paragraph 2 above.

Toole does not disclose the orientation sensor as stated in claim 9.

Regarding the orientation sensor: Chanforan et al. discloses an apparatus for firing including orientation sensors (See Column 13, lines 63 - 65) for detecting the orientation of the sensor. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add an orientation sensor as taught by Chanforan et al. in the device disclosed by Toole et al. in order to define the orientation of the gun in the instant of firing in order to eliminate inaccuracy when shooting and prevent for accidents." This rejection has also been rendered moot by the newly presented claims for the reasons stated above.

The examiner has rejected Claim 10 under 35 U.S.C. 103(a) as being unpatentable over Toole (US 5,179,235) in view of Tai et al. (US 5,483,362). In this rejection, the examiner stated, "Toole discloses a sighting device as stated in paragraph 2 above.

Toole does not disclose the ambient light sensor as stated in claim 10.

With respect to claim 10 : Tai et al. discloses a sight to be mounted on an arm that includes an ambient light sensor (50) mounted on the base. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add an ambient light sensor as taught by Tai et al. in the device disclosed by Toole in order to help correct for brightness and to avoid excess of illumination when not needed that may result in the discharge of the power source. This rejection has also been rendered moot by the newly presented claims for the reasons stated above.

Additionally, Claims 11-12 were rejected by the Examiner under 35 U.S.C. 103(a) as being unpatentable over Toole (US 5,179,235) in view of Sliwa (US 6,301,815). The examiner stated, "Toole discloses a sighting device as stated in paragraph 2 above.

Toole does not disclose the sensor for detecting the presence of an eye as stated in claims 11 and 12.

Regarding claims 11 and 12 : Sliwa discloses a firearm device that includes "biometric sensors" (72) which are sensors for identification purposes, and proximity sensors which detects the proximity to the device. Either sensor, in a broad sense is considered to detect the presence of an eye or person and

detecting the phenomenon of associated with a human being. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add a proximity/biometric sensor as taught by Sliwa in the device disclosed by Toole in order to enhance the safety features by providing a personal recognition assembly that allows the use of the firearm just by the owner or identified person in memory. This rejection has also been rendered moot by the newly presented claims for the reasons stated above.

Finally, the Examiner rejected Claim 13 under 35 U.S.C. 103(a) as being unpatentable over Toole (VS 5,179,235). He stated, "Toole discloses a sighting device as stated in paragraph 2 above.

Toole does not disclose the wavelength of the laser diode as stated in claims 13.

With respect to claim 13 : Toole discloses the use of a laser diode (222,240) for emitting a light beam but does not specify the particular value for the wavelength used for the light emitted from the source. However, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide the wavelength of the light emitted having a value the range of 630 nm - 700 nm, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the "optimum range"

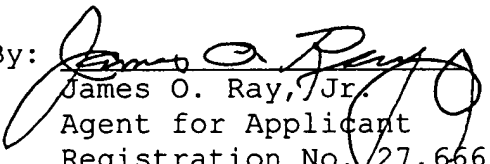
involves only routine skill in the art. In re Aller, 105 USPQ 233." This rejection has also been rendered moot by the newly presented claims for the reasons stated above.

Newly presented claims 15-21 are believed to be in condition for allowance and such action on the part of the examiner is respectfully requested.

In the event the Examiner has further difficulties with the allowance of the application, he is invited to contact the undersigned attorney by telephone at (412)380-0725 to resolve any remaining questions or issues by interview and/or by Examiner's amendment as to any matter that will expedite the completion of the prosecution of the application.

Respectfully submitted,

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